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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,233	02/14/2006	Gene Lee Cheyenne Lewis	MESS 3436	9598
7812 7590 12/17/2007 SMITH-HILL AND BEDELL, P.C. 16100 NW CORNELL ROAD, SUITE 220 BEAVERTON, OR 97006			EXAMINER DANG, HUNG XUAN	
			ART UNIT 2873	PAPER NUMBER
			MAIL DATE 12/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/568,233	LEWIS, GENE LEE CHEYENNE	
	Examiner	Art Unit	
	Hung X. Dang	2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6 and 15-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Information Disclosure Statement

1. The prior art documents submitted by applicant in the Information disclosure Statements filed on 4/27/07 has been considered and made of record (noted attached copy of form PTO-1449).

Claims Rejection Under 35 USC - 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-6 and 15-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Swab et al** (6,769,767) in view of **Kallman et al** (5,455,637).

Swab et al discloses eyewear with exchangeable temples housing a transceiver forming AD HOC networks with other devices comprises a computer, a bracelet and a telephone having a transceivers mounted on them (see figures 1, 3-8, abstract and the related disclosure).

Swab et al does not disclose a case for charging the battery and a rechargeable battery.

Kallman et al, however, discloses a case for charging the battery and a rechargeable battery (see figures 1, 2, 5 and the related disclosure.).

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Because Swab et al and Kallman et al are both from the same field of endeavor, the purpose for convenient recharging of the battery as disclosed by Kallman et al would have been recognized as an art pertinent art of Swab et al.

It would have been obvious, therefore, at the time the invention was made to a person having skill in the art to construct the eyewear system, such as the one disclosed by Swab et al, with a case for charging the battery and a rechargeable battery, such as disclosed by Kallman et al for the purpose for convenient recharging of the battery.

3. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (571) 272-2326.

12/07



HUNG DANG

PRIMARY EXAMINER

TC 2800